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C O N F I D E N T I A L SECTION 01 OF 05 SARAJEVO 001403

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DEPARTMENT FOR EUR (DICARLO), EUR/SCE (STINCHCOMB, HOH),  
EUR/ACE (DUNN) S/WCI (WILLIAMSON, LAVINE); NSC FOR BRAUN;

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TAGS: [PREL](#) [KAWC](#) [ICTY](#) [KJUS](#) [PGOV](#) [BK](#)

SUBJECT: AMB. WILLIAMSON DELIVERS STRONG MESSAGE ON PIFWCS,  
WAR CRIMES PROSECUTIONS

REF: SARAJEVO 1212

Classified By: Amb. Douglas L. McElhaney. Reasons 1.4 (b) and (d).

11. (C) Summary: During a two-day visit to Sarajevo, Ambassador-at-Large for War Crimes Issues J. Clint Williamson met with top Bosnian politicians, justice officials and members of international organizations to discuss improving Bosnia's justice system in advance of the ICTY's planned 2009 closure. Ambassador Williamson conveyed a clear message that capturing fugitive war criminals is a top U.S. priority. He urged Bosnian officials to depoliticize war crimes issues, improve regional cooperation, develop a domestic prosecution strategy and build a state prison. Bosnian interlocutors expressed concern that the difficult political climate was beginning to have a negative impact on war crimes issues, but expressed appreciation for continued USG engagement. End summary.

Main Themes

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12. (U) On June 13-14, Ambassador-at-Large for War Crimes J. Clint Williamson met with the BiH Presidency (Zeljko Komsic, Nebojca Radmanovic, and Haris Silajdzic) He also had meetings with Principal Deputy High Representative (PDHR) Raffi Gregorian; OSCE Mission Head Ambassador Douglas Davidson; Srebrenica Mayor Abdurahman Malkic; OSA (State Intelligence Agency) Director Almir Dzuvo; Prime Minister Nikola Spiric; Party for Democratic Action (SDA) Vice President and Member of Parliament Bakir Izetbegovic; Deputy Speaker of the House of Representatives and HDZ-BiH Vice President Niko Lozancic; State Court President Meddzida Kreso; and State Chief Prosecutor Marinko Jurcevic. All expressed appreciation for the USG's continued engagement and assistance to help Bosnia resolve these issues. The Ambassador also gave an exclusive interview to Dnevni Avaz, the largest-circulation daily paper in Bosnia, and delivered a televised speech to an audience of politicians, government officials, NGOs and victims advocacy groups at the Research and Documentation Center in Sarajevo.

13. (U) During his meetings and in the media, Williamson stressed several themes:

-- The U.S. attaches great importance to apprehending the remaining Persons Indicted for War Crimes (PIFWCs). Ratko Mladic and Radovan Karadzic cannot out wait The Hague

Tribunal. In the event that they are captured after the ICTY close-out, some international mechanism must be created to deal with them.

-- While war crimes issues are understandably integral to domestic politics, politicians must not to exploit or manipulate them for political gain.

-- Bosnia would benefit from increased regional prosecutorial cooperation on war crimes cases, including transferring evidence to neighboring countries that have prohibitions against extraditing defendants.

-- Bosnia's leaders need to provide political, financial, and institutional support to the State Court and State Prosecutor's office, including backing a prosecution strategy to prioritize the large number of war crimes cases.

-- As the recent escape of Radovan Stankovic from Foca Prison (reftel) demonstrates, there is a clear need for a high security State Prison to house convicted war criminals.

#### PIFWC Captures a Matter of Serbia's Political Will

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¶4. (C) Ambassador Williamson's Bosnian and international interlocutors generally agreed that the recent arrest of PIFWC Zdravko Tolimir (reftel) was evidence that the apprehension of Mladic, Karadzic and other remaining PIFWCs, who are likely in Serbia, was purely a matter of political will in Belgrade. Croat Presidency member Zeljko Komsic said he was not sure whether to be pleased Tolimir was finally at The Hague, or outraged that his so-called "capture" was

SARAJEVO 00001403 002 OF 005

clearly staged by Serbian authorities.

¶5. (C) Party for Democratic Action (SDA) Vice President and Member of Parliament Bakir Izetbegovic told Ambassador Williamson that if Mladic and Karadzic were not captured, it would be a huge blow to the international community's credibility here, particularly because, "Bosniak defenders have gone to jail while these men remain at liberty." Bosniak Presidency member Haris Silajdzic said arresting Mladic and Karadzic was in some ways beside the point. He reiterated his familiar maximalist position, stating that the priority should be dismantling their "project" by abolishing the Republika Srpska (RS) and granting Srebrenica legal special status.

¶6. (C) PDHR Raffi Gregorian observed that Serbian Prime Minister Vojislav Kostunica has never publicly called for Mladic's arrest. He noted that he and Karadzic have now been at large longer under Kostunica's democratic government than they were when Milosevic was in power. According to PDHR Gregorian, Bosnian authorities have had some success freezing the assets of PIFWC Stojan Zupljanin's support network. However, they were just beginning to focus on the Karadzic network, and were not putting sufficient pressure on Karadzic's family. PDHR Gregorian judged that there was insufficient coordination between the ICTY and NATO, and the ICTY public outreach program in Bosnia was inadequate.

¶7. (C) OSA Director Almir Dzuvo told Ambassador Williamson that his agency had very good cooperation with the RS Ministry of Interior (MUP), as well as with Serbian and Montenegrin intelligence services. Dzuvo said the November meeting in Montenegro for regional intelligence services, hosted by S/WCI and the ICTY, had helped build that cooperation. Dzuvo told Ambassador Williamson he was interested in hosting a similar gathering in the future. When asked about the specifics of Tolimir's apprehension, Dzuvo said that he was not really interested in the circumstances surrounding the arrest; the important thing was that Tolimir is now at The Hague. Interestingly, when asked directly by Ambassador Williamson, Dzuvo noted that not a

single Bosnian politician had come to him to discuss the whereabouts of the fugitives. "Only the ICTY, the U.S. and the UK seem interested anymore," he said.

#### Depoliticizing War Crimes

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¶18. (C) Mayor Abdurahman Malkic told Ambassador Williamson that politicization of Srebrenica's history and current status was inevitable as long as the justice system remained incapable of adequately addressing war crimes. He said that if plans to open a satellite State Prosecutor's Office in Srebrenica were realized, it would demonstrate that the government was finally ready to deal seriously with these issues, including the so-called "Srebrenica list" of alleged war crimes perpetrators who still hold positions in RS government or law enforcement.

¶19. (C) However, all the officials were skeptical that Bosnian politicians, as PM Nikola Spiric put it, were "adult enough" to put ethnic politics aside to address war crimes cases. Deputy Speaker of the House of Representatives and HDZ-BiH Vice President Niko Lozancic said it was very difficult to have a civil conversation in Parliament about war crimes, because "one group's war criminal was another group's hero." When politicians circled the ethnic wagons, he told Ambassador Williamson, even those who privately disagreed were forced to fall in line.

#### Parliament-Judiciary Communication

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¶10. (C) Ambassador Williamson urged more dialogue between the government and the judiciary on administrative and financial issues, noting that confining discussions to these matters would not threaten judicial independence. While agreeing that the government should provide tangible support to the State Court and Prosecutor's Office, Presidency members and parliamentarians claimed to be unaware of specific resource

SARAJEVO 00001403 003 OF 005

needs. Spiric said Court President Kreso and Chief Prosecutor Jurcevic had never approached the Council of Ministers about these issues. Izetbegovic characterized Parliament as a reactive body, and encouraged the State Court and Prosecutor's Office to be proactive in lobbying for their resource needs. Izetbegovic hypothesized that the Ministry of Justice and Parliament should create a new commission to interact more closely with the Court and Prosecutor's Office. Lozancic also suggested that the Ministry of Justice should become the conduit for communication between the two branches of government.

¶11. (C) When Ambassador Williamson told Kreso that political leaders felt the current level of communication with the Court was insufficient, she appeared surprised and replied that the Court had developed a good working relationship with the Ministries of Treasury and Justice, and, through them, Parliament. Jurcevic also insisted that he had already conveyed to Parliament his specific resource needs, but claimed politicians had no interest in solving these problems.

#### Domestic Prosecution Strategy

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¶12. (C) Spiric said that building up the credibility of the State Court and Prosecutor's Office before the ICTY closes in 2009 was just as important as building institutional capacity. He said the State Prosecutor's Office would have his full support for creating a strategy, but cautioned that, despite being Prime Minister, his capabilities were limited. Komsic said he also supported the strategy, but agreed with Ambassador Williamson that the Prosecutor must continue pursuing cases while it was being developed.

¶13. (C) PDHR Gregorian said OHR has been pressing the Chief Prosecutor to act on the Srebrenica list, including at one point giving him over 100 files to consider. The PDHR expressed concern that Jurcevic might not be up to the job, and said OHR was beginning to consider replacing him. For his part, Jurcevic told Ambassador Williamson he accepted PDHR Gregorian's view that Srebrenica prosecutions should be his top priority, and said that he would support the idea of opening a satellite prosecutor's office in Srebrenica -- provided the international community paid for it.

¶14. (C) The meeting with Jurcevic was particularly unproductive. In response to constructive suggestions as to how to improve the functioning of his office and insulate him from political pressure, Jurcevic focused on what everyone else has to do to improve the situation besides himself.

¶15. (C) Jurcevic said Bosnia needs two war crimes prosecution strategies: an internal strategy for the State Prosecutor's Office, and a national strategy for the war crimes trials that are occurring throughout the country. However, he went on to assert that the strategy (trying the 11bis cases at state court and parceling out rules of the road cases in accordance with prosecutorial guidelines) already existed. (Note: Jurcevic's so-called 'strategy' identifies the many thousand rules of the road cases as a single 'category,' and is thus ineffective in parceling out priorities among this large group. End Note.) Jurcevic and Kreso both rejected the notion of working together to develop new guidelines for handling cases. Jurcevic said the Criminal Procedure Code clearly specifies the independence of courts and prosecutors.

#### Regional Cooperation Needed

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¶16. (C) Kreso complained that neighboring countries were conducting parallel investigations of the same war crimes suspects without coordinating with Bosnia. Ambassador Williamson suggested that increased regional prosecutorial cooperation would help alleviate this problem. Kreso, however, replied the Court needed more time to develop case law to govern keeping or transferring war crimes cases transnationally. She insisted that any effort by the High Judicial and Prosecutorial Council (HJPC) or Parliament to impose criteria would impinge upon judicial independence.

SARAJEVO 00001403 004 OF 005

Kreso conceded that if the State Prosecutor's Office suggested criteria for domestic and transnational case transfers, the judges would consider them.

¶17. (C) For his part, Jurcevic told Ambassador Williamson he was powerless to do anything concrete, adding that Parliament must change the laws that were now impeding regional cooperation. Ambassador Williamson cautioned that the public was losing patience with what it perceived as an excessively slow and unsystematic process, and this was undermining public confidence in the State Court and Prosecutor's Office.

¶18. (C) Lozancic asserted that regional cooperation agreements at the prosecutorial level would not produce results. He suggested the Prosecutor's Office and State Court discuss the matter with the Justice Ministry, which should then convey it to Parliament for a government decision. Spiric said he supported enhanced regional cooperation, and told Ambassador Williamson that he would personally discuss the issue with the Court President and Chief Prosecutor.

¶19. (C) Izetbegovic was of the opinion that Bosnia could work with Croatia and Montenegro on prosecutorial cooperation. However, he was certain the Serbian government would misuse information to warn defendants or deliberately mismanage cases. Ambassador Williamson emphasized during his meetings that case transfers were wholly discretionary. He added that he understood Bosnia's skepticism about Serbia's attitude

towards war crimes prosecutions, and suggested that Bosnia cooperate with Croatia or Montenegro on a test case, and move towards eventual cooperation with Serbia.

¶20. (C) OSCE Mission Head Ambassador Davidson said the standoff between Judge Kreso and Chief Prosecutor Jurcevic on transferring cases to foreign jurisdictions seemed to be more a personal power struggle than a result of political pressures. He said the OSCE might be able to serve as an umbrella organization to facilitate regional cooperation, once the Bosnians were truly ready to move forward with formal agreements. He noted that both institutions needed to have better public outreach.

State Prison Needed  
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¶21. (C) There was general agreement that Bosnia needed a State Prison to house war criminals. Ambassador Williamson lobbied Parliamentary leaders on the need for Bosnian state-level funding for the Prison beyond what is currently budgeted. PDHR Gregorian noted also the importance of creating a law on criminal sanctions at the State level. Gregorian explained that, because war criminals currently serve their sentences in entity prisons, entity penal laws apply. These laws granted privileges for good behavior, such as weekend furloughs, that were inappropriate for convicted war criminals. He told Ambassador Williamson it was frustrating to see Parliament spend money it does not have on the wrong things. Izetbegovic suggested Parliament might be able to find additional funds to help build the prison, but did not go into further details. (Note: The Bosnian government recently pledged to contribute 1 million Euros to the project. End Note.)

Comment  
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¶22. (C) There has been no meaningful attempt by any group to separate war crimes issues from the nationalist politics that is currently paralyzing Bosnia. Rather, politicians have demonstrated that they view the manipulation of war crimes as a legitimate means to advance their respective nationalist platforms. Although Bosnian political leaders told Ambassador Williamson they supported depoliticizing war crimes issues, improving regional cooperation, developing a domestic prosecution strategy and building a state prison, each spoke as if they individually had no role in that effort. Continued pressure on the State Court President and Chief Prosecutor to collaborate on lobbying Parliament for resources, developing a domestic war crimes prosecution

SARAJEVO 00001403 005.2 OF 005

strategy and improving regional cooperation will be important.  
MCELHANEY